

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 DISTRICT OF HAWAII

3 LINDA DEATON,) CIVIL NO. 01-00352SPK-BMK
4 Plaintiff,) Honolulu, Hawaii
5 vs.) April 16, 2003
6 CHEVY CHASE BANK, et al.,) 10:15 a.m.
7 Defendants.) FURTHER JURY TRIAL
8) VOLUME 3

9 TRANSCRIPT OF JURY TRIAL
10 BEFORE THE HONORABLE SAMUEL P. KING,
11 SENIOR UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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P.O. Box 50131
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26 Proceedings recorded by machine shorthand, transcript produced
27 with computer-aided transcription (CAT).

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1 need to.

2 But if you would turn in your book, the plaintiff's
3 exhibit book, back to Exhibit Number 7. This is your January
4 21, 1994 letter to Chevy Chase Bank, correct?

5 A Correct.

6 Q And this was sent in response to a billing statement that
7 had a closing date of January the 12th of 1994; is that
8 correct? That's your Exhibit 7B.

9 A Let me look at that, Ms. Martin.

10 Q Oh, I take it back. That's not 7B -- oh, wait, yes, it
11 is. 7B has the statement closing date of January 12th of
12 1994.

13 A Statement closing date, yes.

14 Q Yes. And that statement was sent from Chevy Chase's P.O.
15 Box 17423, correct?

16 A Yes.

17 Q And it was sent to -- it's addressed to you and to
18 Mr. Hariri, correct?

19 A Correct.

20 Q At P.O. Box 88252, correct?

21 A Correct.

22 Q Correct me if I'm wrong, but I believe you testified that
23 that's his P.O. Box; is that right?

24 A Correct.

25 Q So at this time, we've heard already that the card, even

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1 though it was your card, you were responsible, he was using
2 it; can we presume that by this time the statements were going
3 to his address; is that correct?

4 A It says his address there.

5 Q Okay. And the Exhibit Number 7 has a return address of
6 his address, correct?

7 A Number 7. It's the same address as on the statement.

8 Q Okay. And the -- it was mailed to Chevy Chase at that
9 P.O. Box 17423, correct?

10 A Correct.

11 Q Which was the address from where the billing statement
12 came, right?

13 A Correct.

14 Q Okay. So you knew at least as of January 21 of 1994 that
15 you were contesting something on your statement; is that
16 right?

17 A That's right.

18 Q Let us flip over to, please, Exhibit 15. 15 is your
19 March 28, 1994 letter to Chevy Chase, correct?

20 A That's correct.

21 Q This is the one that you explained to us how you sent it
22 to a street address, Spectrum Drive, correct?

23 A Yes.

24 Q If you look at Page 15 -- or exhibit Page 15C?

25 THE COURT: Wait a minute. Am I with you? Is this

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1 15?

2 MS. MARTIN: Yes, we're at 15.

3 THE COURT: I thought -- I thought it was addressed
4 to P.O. Box 909?

5 MS. MARTIN: It is addressed to P.O. Box 909, Your
6 Honor, but I believe we can confirm from her testimony and I
7 just wanted to verify --

8 THE COURT: Ask her --

9 MS. MARTIN: -- where the letters went to.

10 THE WITNESS: Sir.

11 THE COURT: It didn't go to P.O. Box 909?

12 THE WITNESS: We did the certification to the street
13 address because at that time I was under the understanding you
14 couldn't go to a P.O. Box.

15 BY MS. MARTIN:

16 Q And that's -- that's what shows on Exhibit 15C, correct?

17 A Correct.

18 THE COURT: Oh, I see. Okay.

19 BY MS. MARTIN:

20 Q And the date that you actually sent this letter was April
21 2nd, right?

22 A Yes.

23 Q That's what the date stamp shows on Exhibit 15C.

24 THE COURT: You can't get a certified mail sent to a
25 box -- P.O. Box.

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1 THE WITNESS: I think it went -- it went along
2 with -- a copy of the letter went along with the March 28th
3 letter, and we had a little bit of difference on that because
4 we typed in the bottom, I believe -- let me look, Ms. Martin.

5 THE COURT: Well, it did or it didn't, and you're
6 talking about seven days.

7 MS. MARTIN: Correct, Your Honor, but seven days can
8 be seven very important days.

9 THE WITNESS: It did go out.

10 BY MS. MARTIN:

11 Q It went out, but you don't know when. In fact -- well,
12 let's look at Page 14A. That's one of your attachments to the
13 March 15th letter.

14 A Right.

15 Q Page 14A is that notarized statement of yours?

16 A The 18th. I said it may not have gone right out at the
17 15th.

18 Q So based on this letter, it couldn't have gone until at
19 least the 18th, right?

20 A Correct.

21 Q If then. Thank you.

22 Now, you testified on direct examination that you
23 were using the subject credit card in 1993 and that Kamran was
24 also using it, correct?

25 A I don't recall exactly how that was stated.

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1 Q Which -- who was actually using the credit card in 1993?

2 A Kamran. Kamran used it most --

3 THE COURT: That always confuses me because you only
4 had one card?

5 THE WITNESS: I had another card I used for a lot of
6 personal things.

7 THE COURT: But I mean on this same account.

8 THE WITNESS: This -- only one card for this same
9 account, that's -- I at one time probably had a card, but I
10 don't know when I put it away.

11 THE COURT: You never used it?

12 THE WITNESS: Very seldom.

13 THE COURT: But there was another card on the same
14 account?

15 THE WITNESS: Yes.

16 THE COURT: One to you and one to --

17 THE WITNESS: Yes.

18 THE COURT: -- Hariri?

19 THE WITNESS: Yes.

20 BY MS. MARTIN:

21 Q Well, you were the responsible party on the account;
22 isn't that correct?

23 A That's right, and I reviewed the statements.

24 Q Did you hear your counsel identify Mr. Hariri as a friend
25 and associate during the opening statement yesterday?

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1 BY MS. MARTIN:

2 Q Isn't it true, though, that, Ms. Deaton, in October of
3 1993, you were questioned as to Mr. Hariri's assets?

4 A I don't recall that, no, ma'am.

5 Q We can bring in the attorney to -- who questioned you.

6 MR. PHILLIPS: Well, Your Honor, I'm going to
7 object to --

8 THE COURT: That was an improper statement. You want
9 to do that, go ahead and bring him in if he's -- if the
10 evidence is admissible. I'll sustain the objection.

11 BY MS. MARTIN:

12 Q The charges that were incurred in November 1993 at the
13 Maui Inter-Continental and through Budget and Amerivox were
14 all incurred by Mr. Hariri, correct?

15 A Correct.

16 Q And he was traveling with somebody else and signed in
17 under a Mr. and Mrs. Hariri; isn't that right?

18 THE COURT: If you know.

19 THE WITNESS: I really don't.

20 THE COURT: You weren't there?

21 THE WITNESS: I was not there.

22 BY MS. MARTIN:

23 Q Well, Ms. Deaton, you have asked and had the court admit
24 into evidence Exhibit Number -- it's either -- don't have my
25 numbers well enough marked, but it's either --

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1 THE COURT: I can't see how that's relevant.

2 MS. MARTIN: Her knowledge, Your Honor. Her
3 knowledge and --

4 THE COURT: So what?

5 MS. MARTIN: -- her contribution to this whole thing.

6 THE COURT: You want to prove he was there with
7 somebody else?

8 MS. MARTIN: People have an obligation to watch their
9 credit cards, Your Honor.

10 THE COURT: You object?

11 MR. PHILLIPS: I object, Your Honor.

12 THE COURT: Sustain the objection.

13 MR. PHILLIPS: Thank you.

14 BY MS. MARTIN:

15 Q Now, Ms. Deaton, you testified earlier, either today or
16 yesterday, that Mr. Hariri was sending you the credit card
17 statements or you were getting them from him on a quarterly or
18 semiannual basis; isn't that correct?

19 A I did look at them, yes.

20 Q You testified that it was quarterly or semiannually,
21 correct?

22 A My exact words, I don't know, but I'm sure -- you know,
23 two or three times a year I think is what I said.

24 Q Isn't it actually true that you did not get the
25 statements from him?

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1 A No, ma'am.

2 Q Ms. Deaton, do you remember being called to my office for
3 a deposition in November -- last November, November 5th of
4 2002?

5 A Yes, ma'am.

6 Q And we asked you questions in front of a court reporter?

7 A Yes, ma'am.

8 Q And you were sworn to tell the truth?

9 A Yes.

10 Q And at the end of the deposition you were told you would
11 be given a copy of the deposition to review?

12 A Yes.

13 Q And you were given a copy of the deposition to review?

14 A Yes, ma'am.

15 Q And you made no corrections; isn't that correct?

16 A That's correct.

17 MS. MARTIN: I would ask the court to unseal the
18 deposition of Ms. Deaton.

19 THE CLERK: (Complying). Do you have a page number,
20 Ms. Martin?

21 MS. MARTIN: I'm going to be looking at Page Number
22 162 through 164.

23 THE CLERK: (Handing document.)

24 MS. MARTIN: Focusing on 163 and 164 at this point.

25 THE WITNESS: 163.

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1 BY MS. MARTIN:

2 Q I'm going to read to you starting from Line 24 on Page
3 163 down through Line 15 on 164, and I would ask that you
4 follow along with me and check my reading for accuracy.

5 Starting with that Line 24, this was me talking: "My
6 question is: Were you still using the account when you wrote
7 this letter?" On Page 164.

8 Your answer: "I was not using the account. Kamran
9 may have been using it but almost -- I'd say just quick
10 calculation in '98, most of that money that was owed would
11 have been due to the interest on the 2000. Interest in
12 overlimit because of the 2000 being on there erroneously.

13 "Question: Who was receiving -- can I presume that
14 statements were being sent monthly?

15 "Answer: I would think they probably were.

16 "Question: To you or to Kamran?

17 "Answer: To Kamran.

18 "Question: Was he letting you know on a monthly
19 basis that the statements were coming?

20 "Answer: No.

21 "Question: He didn't forward them to you?

22 "Answer: No."

23 Did I read that correctly, Ms. Deaton?

24 A You read what was said.

25 Q Thank you.

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1 A What is the question?

2 Q I just asked if -- the question was: Did I read that
3 correctly? That was out of the deposition from November 5th
4 of 2002.

5 A I didn't receive them monthly.

6 Q Ms. Deaton, did I read the testimony accurately out of
7 the deposition? That's just a "yes" or a "no," please. Did I
8 read the testimony accurately?

9 A Yes, you did.

10 Q Thank you.

11 The Rancho Mirage address that shows on some of these
12 statements was Kamran's address, correct?

13 A Correct.

14 Q And you never lived there; is that right?

15 A Correct.

16 Q Isn't it true -- your testimony today was that you asked
17 on one of your telephone calls to the bank, you told them in
18 1998, I believe, that you were thinking about getting rid of
19 the card?

20 A Yes.

21 Q Isn't it actually true --

22 A 1997.

23 Q Excuse me?

24 A I think it was 1997.

25 Q 1997, 1998. Isn't it actually true that in 1994 you

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1 Q I'm not asking about the deposition. I'm asking you a
2 question. Isn't it true that you asked him to return the card
3 to you?

4 THE COURT: Do you have something from the deposition
5 you want to read to her, go ahead.

6 BY MS. MARTIN:

7 Q If you don't have a recollection, we will ask for your
8 deposition testimony.

9 A All right.

10 Q If you turn to Page 30 in the deposition.

11 A Okay.

12 Q I'm going to start reading at Line Number 15, and I will
13 go to the --

14 THE COURT: What page?

15 MS. MARTIN: I'm sorry, Your Honor. On Page 30, Line
16 15, Your Honor.

17 BY MS. MARTIN:

18 Q Question --

19 MR. PHILLIPS: Where are you going to read to,
20 Ms. Martin?

21 MS. MARTIN: Top of Page 31, Line 1.

22 BY MS. MARTIN:

23 Q Page 30: "Did you ever ask him to return the credit card
24 to you?

25 "Answer: At one time, yeah.

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1 "Question: When?

2 "Answer: After this fiasco started, I said: Let's
3 get rid of it.

4 "Question: And what was his response?

5 "Answer: We were trying to work through it. So I
6 can't recall either a yea, nay or -- I thought the credit card
7 company handled it.

8 "Question: Well, I'm talking about the specific
9 card. Did he send it back to you?

10 "Answer: No."

11 So you didn't close the account in 1994, did you?

12 A That's correct.

13 Q Your testimony today was that you made calls to Chevy
14 Chase off and on without any specificity during the time
15 period between 1964 and 1960 -- I mean 1994 and 1998; isn't
16 that correct?

17 A Correct.

18 Q But isn't it actually true that from early 1994 to
19 February of 1998, you did not make any efforts to contact
20 Chevy Chase?

21 THE COURT: From '94 to '98?

22 MS. MARTIN: Yes, Your Honor.

23 THE COURT: Not in '95, '96 or '97?

24 THE WITNESS: I made calls, yes, ma'am.

25 THE COURT: You did?

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1 THE WITNESS: Yes, ma'am -- yes, sir.

2 BY MS. MARTIN:

3 Q Your testimony today is that you made calls?

4 A Yes, ma'am.

5 Q I ask you to turn in the deposition to Page 162. I'm
6 going to start reading at Line 11. Tell me when you're there.

7 A Okay. I'm trying to flip through, so excuse me for being
8 slow here.

9 Q No, no.

10 MR. PHILLIPS: How far are you going to read, please?

11 MS. MARTIN: Just a moment, because I am going to
12 have to skip.

13 THE WITNESS: Okay. I'm at 162.

14 BY MS. MARTIN:

15 Q Going to read from Line 11 down to the end of that page
16 on to Page 163 through Line 2, and then I will start up again
17 at Line 7 on Page 163 and go through Line 14 -- no, through
18 Line 19.

19 Starting on Page 162, Ms. Deaton, at Line 11:

20 "Question: Okay. Going to the letter that's Bates
21 stamped number 042, it is a letter on the Linda Deaton/Kamran
22 Hariri letterhead dated February 28th, 1998, addressed to
23 Chevy Chase Bank. Do you recognize this letter?

24 "Answer: Uh-huh.

25 "Question: Did you draft it or did Kamran draft it?

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1 "Answer: We both had a hand in it.

2 "Question: What instigated writing it?

3 "Answer: The situation had not been solved yet. We
4 were trying to get it, you know, the mistake which we've been
5 working on, corrected.

6 "Question: But you don't remember any particular
7 event that caused you to start communicating with Chevy Chase
8 again?

9 "The letters and files that you've given to us have a
10 gap in time from about '94 'til '98, when there was no
11 communications.

12 "Answer: Well, I assume that --"

13 Then skipping to Line 7, your question: "Could you
14 repeat the question?"

15 I repeated the question.

16 "The question essentially is: What made you start
17 initiating correspondence with Chevy Chase again concerning
18 this in 1998?

19 "Answer: So much has happened. We've been trying to
20 work on this. Now I had gotten the credit report and I had
21 mentioned earlier or we had talked from Privacy Guard dated
22 February 6.

23 "Question: But the Privacy Guard thing -- okay. So
24 if you --

25 "Answer: And I had voiced a comment that I was

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1 concerned about the balance.

2 "Question: Okay. So that's what --

3 "Answer: That may have been."

4 A That was a letter and that was what I was referring to is
5 written communication.

6 Q The question had referred to letters and files that had a
7 gap in time from '94 until '98.

8 A That was a letter.

9 Q Well, Ms. Deaton, let us --

10 Ms. Deaton, do you remember providing a request to
11 answers for interrogatories? They're attached as Exhibit H to
12 your deposition.

13 MS. MARTIN: I'm not sure if she was given the
14 exhibits to the deposition.

15 THE CLERK: Yes, the exhibits are right over there.
16 Do you want the exhibits also?

17 MS. MARTIN: Yes, please.

18 BY MS. MARTIN:

19 Q Would you turn to Exhibit H in the deposition -- in the
20 exhibits to your deposition.

21 A Exhibit which number?

22 Q Exhibit H. There should be tabs on the exhibits. Each
23 exhibit was pretty fat if you remember. There's no tabs on
24 your exhibits?

25 A No, ma'am.

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1 Q That's the original. Do the green dividers help?

2 MS. MARTIN: Should be at least two-thirds to
3 three-quarters of the way through.

4 THE CLERK: It's H, right?

5 MS. MARTIN: Yes.

6 THE CLERK: Okay. I'm almost there. She has it.

7 MS. MARTIN: Thank you.

8 THE CLERK: You're welcome.

9 BY MS. MARTIN:

10 Q Ms. Deaton, I know it's been a while since you've looked
11 at this, so would you take a quick look through Exhibit H,
12 especially noting the last page of it just so you refresh your
13 recollection.

14 A (Perusing document).

15 Q This is your response to the Defendant's Request for
16 Answers to Interrogatories in this lawsuit; is this correct?

17 A For answers -- it says: "Defendant Chevy Chase Bank's
18 First Request for Answers to Interrogatories."

19 Q Yes. Do you remember doing the answers to this?

20 A I'm -- let me find the questions first.

21 Q Mine has a mark at the bottom of the page from the court
22 reporters that Page 8 is the first question page of the
23 interrogatories. Yours don't have any numbers on the bottom?

24 A I see a Page 7. Eight is not numbered. I've got Page 8,
25 interrogatories.

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1 Q Okay. Page 8. Those are the numbers I'm referring to.

2 Okay. Page 8, the first interrogatory that was asked
3 of you -- and I'll read this to you, and please tell me if I
4 am reading it accurately -- says: "Provide a detailed
5 explanation and chronology of each attempt you made from
6 December 1993 to the present of your attempts to correct your
7 credit card account with Defendant Chevy Chase Bank and/or its
8 successor, including details for each attempt on when the
9 attempts were made, including the date, the form of
10 communication, telephone, letter, et cetera, and the person
11 contacted."

12 Did I read that correctly?

13 A Yes, ma'am.

14 Q And the answer says: "See attached chronology." The
15 chronology, I believe, is Page 17, but you can clarify if you
16 agree that that is the attached chronology to which you refer.
17 These are your answers, correct?

18 A Attached chronology to interrogatory 1. Yes, it doesn't
19 have a page number.

20 Q Okay. But it is in chronologic order, correct? I see
21 dates on there and I'm only asking for verification. There's
22 a dates in there that are in 1993 and '94 on the first page of
23 that chronology. Go to the next page of the chronology, there
24 is dates that go down through 1994 and then they skip to
25 February of 1998.

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1 A That was basically a listing of all the letters and
2 statements.

3 Q But the interrogatory did ask for all communications and
4 attempts including telephone calls, letters, et cetera,
5 correct?

6 A That's correct.

7 Q Thank you.

8 Ms. Deaton, I'm going to ask you to turn in the
9 Defendant's Exhibits manual --

10 A Is it this red one here?

11 Q I believe it's a red one.

12 THE CLERK: It says "defendants." The next one.
13 There you go.

14 BY MS. MARTIN:

15 Q You have the manual there?

16 A Yes, ma'am.

17 Q Thank you. Would you turn to a very fat document that's
18 marked Number 209. Look for tab 209.

19 (Counsel conferring.)

20 BY MS. MARTIN:

21 Q Now, Ms. Deaton, I know that you have seen this at this
22 point, but I don't believe that you received the originals of
23 this, but I would ask you to glance through this and, if you
24 can -- and I'll help you if you need help -- I'll ask you to
25 identify as best as you can what this exhibit represents.

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1 MS. MARTIN: I apologize.

2 MR. PHILLIPS: You identify these documents by the
3 payment due date or statement closing date?

4 THE COURT: Don't -- don't --

5 MS. MARTIN: I would like to use the statement
6 closing date.

7 THE COURT: Don't start talking to each other.

8 MS. MARTIN: He was asking a question for
9 clarification.

10 BY MS. MARTIN:

11 Q The statement closing date -- there's two dates that are
12 key on these statements, aren't there, Ms. Deaton; the
13 statement closing date and the statement due date?

14 A Correct.

15 Q Okay. And the form changed over the years, too, correct?

16 A Many times.

17 Q Okay. At this time, the statement closing date is shown
18 right in this little area. And will you agree with me that
19 the statement closing date says 7/12 of '94, right?

20 THE COURT: Is which again?

21 THE WITNESS: 7/12/94?

22 MS. MARTIN: July 12th, 1994.

23 THE COURT: Not in order.

24 BY MS. MARTIN:

25 Q For this particular billing statement, the account was

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1 being used, right, Ms. Deaton?

2 A Yes, ma'am.

3 Q Okay. And it was being sent to Mr. Hariri's P.O. Box,
4 correct?

5 A Correct.

6 Q Okay. Then I know this is going to be -- this may not be
7 the easiest --

8 THE COURT: July 12th, 1994.

9 MS. MARTIN: Was that -- I'm sorry, Your Honor, I
10 didn't hear your question.

11 THE COURT: The number down at the bottom is -- go
12 ahead.

13 MS. MARTIN: Okay.

14 BY MS. MARTIN:

15 Q So that -- were the statements all going to Mr. Hariri at
16 that point in time?

17 A Yes.

18 Q So where we've got a statement that's -- was his address
19 in Scottsdale, Arizona, at one point in time?

20 A Uh, I --

21 Q I'm not asking you to look at -- just off the top of your
22 head.

23 A I'm not sure. It was on the Mainland. I remember, I
24 think, Santa Mirage.

25 Q If you will turn over two pages backwards -- oh, I'm

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1 sorry. Yes. This is the statement with a closing date of
2 August 11, 1994, correct?

3 A Correct.

4 Q And down here on the information line, it says: "Please
5 pay past due amount immediately to avoid suspension of your
6 account." Isn't that what it says?

7 A Yes.

8 Q Thank you.

9 THE COURT: Does it show the past due --

10 BY MS. MARTIN:

11 Q And if you will turn over --

12 THE COURT: Does this one show the past due amount on
13 it?

14 MS. MARTIN: Which one are you looking at, Your
15 Honor?

16 THE COURT: The one you were just talking about.

17 MS. MARTIN: Yes.

18 THE COURT: Well, where is it?

19 MS. MARTIN: This is the statement closing date of
20 August 11, 1994.

21 THE COURT: Where does it show the past due amount?

22 MR. PHILLIPS: Well, you can't see it, Judge, because
23 this is an incomplete document. That would be -- it's all cut
24 off.

25 THE COURT: Oh, I see. Down there in the black

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1 somewhere?

2 MR. PHILLIPS: No, it is on the --

3 MS. MARTIN: Actually, no, it is not an incomplete
4 document. If you go over to -- it is -- there's two pages to
5 this particular statement. It says Page 1 of 2 and Page 2 of
6 2.

7 MR. PHILLIPS: She's right. I'm sorry.

8 THE COURT: What's the past due amount?

9 MS. MARTIN: And on Page 2 of 2, it shows a finance
10 charge and the information up at the top of the page is not
11 legible on any of the copies.

12 THE COURT: Previous balance probably. Anyway, go
13 ahead.

14 MS. MARTIN: It's in there.

15 BY MS. MARTIN:

16 Q Then flipping -- I would ask everybody to turn in
17 their -- the statements -- see if I got the right one -- this
18 one dated December 12th of 1994. Statement closing date of
19 December 12, 1994.

20 And this one says, again at the bottom: "Please pay
21 past due amount immediately to avoid suspension of your
22 account." Isn't that correct?

23 A That's what it says, yes, ma'am.

24 Q If you turn two pages --

25 THE COURT: I see one for September 13th. You got

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1 one through September 12th, too.

2 MS. MARTIN: We're in December --

3 THE COURT: 12/12. Okay.

4 MS. MARTIN: Yes, 12/12/94.

5 THE COURT: Got it.

6 BY MS. MARTIN:

7 Q And I'm turning to -- going into the next year. I can
8 barely read it up there myself.

9 MS. MARTIN: Is this the 1995 -- boy.

10 (Counsel conferring.)

11 BY MS. MARTIN:

12 Q Okay. Looking at the statement closing date of 1/12/95,
13 again: "Please pay past due amount immediately to avoid
14 suspension of your account."

15 Then I'm going to ask you to turn to the statement
16 has a closing date of April 12th, 1995. 1995, we have a
17 balance running here of \$5,600 in 1995, correct?

18 A I believe that's because of a cash advance.

19 Q And -- Mr. Hariri's cash advance?

20 A Right.

21 Q And this statement is sent to a Scottsdale, Arizona
22 address. Whose address is that?

23 A It's Kamran's.

24 Q Oh, so he was living in -- you know for sure if he was
25 living in Scottsdale, Arizona?

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1 A This bill was mailed to Scottsdale.

2 Q But it doesn't even have his name on it.

3 A Right.

4 Q But it wasn't mailed to you, correct?

5 A Correct.

6 Q And he was responsible -- you had given him the -- the
7 charge card to use, right?

8 A We were using it for business expenses.

9 Q You were in business with him at the time?

10 A We were both using it for business expenses. We was
11 hoping to make some investments.

12 Q I thought you said you weren't using the card earlier?

13 A He used it mostly for his business expenses. I had
14 the -- a card available to use it.

15 Q Oh, okay. Going over to the statement dated August 11th
16 of 1995. This one is a little easier to read, thank goodness.

17 This one is also addressed to the Scottsdale address
18 and, Ms. Deaton, doesn't this one again say: "Please pay past
19 due account immediately to avoid suspension of your account"?

20 A I don't see a late charge, so that --

21 Q But the language is on there saying: "Please pay past
22 due account immediately to avoid suspension," correct?

23 A It does say that, yes, ma'am.

24 Q Thank you.

25 And I would ask you to turn over to the statement

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1 dated December of 1995. This one dated December of 1995 again
2 has your name and the Scottsdale address, but it again was
3 going to Kamran Hariri, correct?

4 A Yes, ma'am.

5 Q This one -- do you have the page yet, Ms. Deaton?

6 A What was the date again?

7 Q The statement closing date of December 12, 1995.

8 A Payment due by -- statement closing date, you said?

9 Q Yes.

10 A Can't read the titles up at the top. I'm sorry.

11 Q It's buried in that little line.

12 A That's a statement --

13 Q If you are looking --

14 A I can't read it.

15 Q If you are looking at the payment due date, it is January
16 6th of '96, if you are looking at that top line for a date.

17 A Okay. Payment due date, 12/5 -- you want a payment due
18 date by 12/5?

19 Q No, I'm looking payment due date of January 6, '96.

20 A Okay, I found it.

21 Q You got it. Okay. And this is the statement closing
22 date of December 12, '95, correct?

23 A Repeat that again?

24 Q This is the statement closing date of December 12, 1995,
25 correct?

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1 A I see that on here, yes, ma'am.

2 Q Okay. This one has a reminder, a bigger -- a different
3 reminder than you've had before. I believe it says in the
4 middle of the page: "Reminder. You have exceeded your credit
5 limit. Please submit an additional payment to cover this
6 amount." Is that correct?

7 A Correct.

8 Q If you will turn to the very next page, going forward, of
9 course, this is the statement closing date of January '96.
10 Now, this one has a new address on it, and I would like a
11 clarification of whose address. This one says Linda Deaton
12 and Kamran Hariri at P.O. Box 75043.

13 A Kamran.

14 Q That's -- in Honolulu. So Kamran moved back to Hawaii
15 then?

16 A He was in -- in Hawaii most of the time. He had another
17 address on the state because -- on the Mainland because he did
18 go over there quite often, but he didn't just totally over
19 there.

20 Q Oh, okay. This one says your account is past due.

21 A Then, again, I still don't see a past due amount.
22 Usually if it gets too past due, they'll hit you with a past
23 due charge.

24 Q Well --

25 A Sometimes when your payment is on the way there, they say

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1 this is due, but as long as your payment gets there, you are
2 not hit with the late charge, and I think that's what these
3 are.

4 Q Well, the document says your payment is past due, doesn't
5 it?

6 A They do -- yes, it does. Yes, ma'am.

7 Q Thank you.

8 Then I'm going to ask you to turn several pages to a
9 statement with a closing date of April 10, 1997.

10 A Statement closing date you said?

11 Q Yes.

12 A April 10 of 1997.

13 Q Yes. We're in a different form at this point. The
14 statement closing date shows on the document over there
15 under -- on the left side of the document, it shows under
16 account summary for the closing date. I'm only using these
17 for references.

18 Could you identify the address to where this billing
19 statement was sent, Ms. Deaton?

20 THE COURT: If you found it already.

21 THE WITNESS: Up at the top, it says 350 Ward.

22 BY MS. MARTIN:

23 Q And that's with a P.O. Box? Is that a P.O. Box 106251?

24 A Doesn't say P.O. Box.

25 Q No, it doesn't. What address is that?

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1 A Undoubtedly Kamran. It's not my address.

2 Q But you don't know for sure if that's Kamran's?

3 A I'm not sure, no, ma'am, but I would imagine it is.

4 Q Flipping a few more pages to the statement with a
5 statement closing date of September 11th of '97.

6 A I can't read -- it's hard to read. It may -- it's 11/97
7 is all I can tell.

8 Q Okay. Well, if you look up at the top right-hand side on
9 the new balance, are you looking at the page that has
10 \$5,788.52 as the new balance?

11 A Yes, ma'am.

12 Q Okay. Then you're at the right place. On this
13 particular statement over on the left-hand side under the new
14 balance, there's an account summary and some numbers, and then
15 there's some writing. And that says: "Are you aware that
16 your Chevy Chase card account has fallen past due? Please pay
17 today." Is that correct?

18 A That's right.

19 Q Then if we go over to the statement that is dated
20 November 12th of 1997. This one again is sent to that Ward
21 Avenue address; isn't that correct, Ms. Deaton?

22 A Correct.

23 Q And again, in November, we just heard in -- there was a
24 notice in September of being due, and in November again, it
25 says: "Are you aware that your Chevy Chase credit card

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1 account has fallen past due? Please pay today." It's on
2 there, right?

3 A Yes.

4 Q And the very next page, which is the statement closing
5 date of December '97, again says: "Are you aware that your
6 Chevy Chase credit card account has fallen past due? Please
7 pay today." Doesn't it say that?

8 A Yes.

9 Q And the next -- the next day, with the statement closing
10 date of January 1998 -- do you have that one, Ms. Deaton?

11 A Yes, I do.

12 Q And again, it says: "Are you aware that your Chevy Chase
13 credit card account has fallen past due? Please pay today."
14 It's in there, right?

15 A That's right, but every month has a payment. I'm
16 confused.

17 Q Then turning to the very next page. This is the
18 statement dated February 1998. This is the month that you got
19 that notice -- you got your first Privacy Guard credit report,
20 right?

21 A Correct.

22 Q And on this one it says: "As of this statement, your
23 balance exceeded your credit line. Please remit the over
24 credit line amount immediately." Is that correct? Did I read
25 it right?

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3-160

1 A Yes.

2 Q And on the next page, which is the account summary with a
3 statement closing date of March 1998, do you have that page,
4 Ms. Deaton?

5 A Yes.

6 Q That one again says: "Are you aware that your Chevy
7 Chase credit card account has fallen past due. Please pay
8 today."

9 A Right. We had stopped payments.

10 Q Then if you will turn two pages. I'm looking at the
11 statement closing date of April -- April 10th, 1998. Do you
12 have that one, Ms. Deaton?

13 A Yes, ma'am.

14 Q The address that this one is sent to is now a -- a Rancho
15 Mirage, California address; is that right?

16 A Correct.

17 Q P.O. Box 2351; is that right?

18 A That's right.

19 Q Whose address is that?

20 A Kamran.

21 Q So he's still getting the credit card statements, right?

22 A Yes, ma'am.

23 Q And on this one, it says in that informational area:
24 "Your charging privileges are temporarily suspended. Send the
25 amount due today or call us." Isn't that correct?

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3-161

1 A Yes, ma'am.

2 Q And then on the next page, which is the May 12th, 1998
3 statement, again sent to Rancho Mirage. So Mr. Hariri got
4 this one, right?

5 A Yes.

6 Q It says, in the informational line: "Your charging
7 privileges are permanently revoked. Please contact us to
8 discuss payment options"; is that correct?

9 A Correct.

10 Q Then if you turn the page to the statement closing date
11 of June 1998. Do I have the right one up there? One is dated
12 June 1998, again went to Rancho Mirage, correct?

13 A Correct.

14 Q And this one says: "Your account continues to remain
15 seriously delinquent. Please contact us." Right?

16 A Correct.

17 Q Then we turn over a few more pages to the September 1998
18 statement. And this one went to the Rancho Mirage address,
19 correct?

20 A Correct.

21 Q And this one doesn't have a line under that new balance
22 thing, there's nothing in that informational box this time,
23 but if you look down farther on the page to transactions,
24 there's -- there are two lines of entry, one says: "Charge
25 off account principal, \$6,116.98." Do you see that?

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1 A You said statement closing date 9/11/98?

2 Q I believe it's 9/21/98.

3 A Okay. I heard the nine, so I was not on that page. I've
4 got 9/21/98.

5 Q Okay. If you go down to the transaction area of the
6 document.

7 A Yes, ma'am.

8 Q There's two lines there. The first line says: "Charge
9 off account principals, \$6,116.98." Right?

10 A That's what it says.

11 Q And "charge off account finance charges, \$1,737.21,"
12 right?

13 A That's what it says.

14 Q Okay. And then if you would turn to the statement
15 closing date of January 13th of 1999. That one again goes to
16 Rancho Mirage, right?

17 A Correct.

18 Q The only thing of interest here is, it says Chevy Chase
19 Bank here, right? That's where you're getting the credit card
20 statement from, right?

21 A Correct.

22 Q If we go to the next page, your next account statement
23 with a closing date of February 1999 -- I think I had the
24 wrong page up there. There we go.

25 It's now a First USA account, right?

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1 A Yes.

2 Q Okay. You have learned along the way that Chevy Chase,
3 the account was bought by First USA, correct?

4 A Correct.

5 Q So all during that period Mr. Hariri was getting all of
6 these statements that had the notices of write-offs or
7 delinquencies; they were going to his address, correct?

8 A Correct.

9 Q Ms. Deaton, going back to an exhibit that you went over
10 with your attorney, your Exhibit Number 18 --

11 MS. MARTIN: And I will ask for an agreement of
12 counsel that the document that we identified as Exhibit 206 is
13 identical to your 18, and since I have my 206 on the computer,
14 you agree that I can --

15 THE COURT: You are not getting that on the record if
16 you want it on the record.

17 MR. PHILLIPS: Yes. Yes. Yes, I agree.

18 MS. MARTIN: It's an agreement. Thank you.

19 THE COURT: You want to let us in on it?

20 MS. MARTIN: Your Honor, there's just been a
21 stipulation between counsel that --

22 THE COURT: Yes, but you know -- that's a no-no. You
23 do that in recess. What's the -- we got a lot of people
24 sitting around listening and they want to know what it is.

25 MS. MARTIN: We have just agreed that we have

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1 A Yes.

2 Q There was a one "over 30" for that Chevy Chase account,
3 correct?

4 A Only one.

5 Q And there were -- two of the places showed "over 30" for
6 the Bank of New York account, right?

7 A What was that?

8 MR. PHILLIPS: I think that's past due --

9 MS. MARTIN: Past due 30.

10 THE WITNESS: What was that?

11 BY MS. MARTIN:

12 Q On the -- on the Bank of New York trade line?

13 A Yes, ma'am.

14 Q You have two of the reporting agencies; we have Trans
15 Union, TRW, which is also known as --

16 A Experian.

17 Q Yes, Experian, thank you. And then we have Equifax,
18 right?

19 A Yes, ma'am.

20 Q So for Bank of New York, TRW and Equifax were both --
21 both had picked up a past due of 30 for your Bank of New York
22 account, right?

23 A Each one picked up one past due of 30.

24 Q Yes. Okay. And then for Liberty House, all the
25 reporting companies picked up past dues for you on that?

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1 A Correct.

2 Q Picked up one 30 and the other two picked up two 30s,
3 correct?

4 A Correct.

5 Q And then there was a -- the next Liberty House account,
6 there was actually five past due 30s, correct?

7 A That confused me, but it says that, yes.

8 Q Okay. Could we clarify, because we have -- we've seen
9 Bank One's name several times here. There is a Bank One entry
10 here on the next line for an account 5415270, and then we
11 don't know the last part, correct?

12 A Correct.

13 Q That's not the account that you're suing these people
14 over, correct?

15 A That's right.

16 Q Okay. Then the -- I don't want to misquote you, but I
17 want to go back, talk about your explanation of the Sears. My
18 notes say that as to the Sears account, it says: "Pays as
19 agreed," and you agreed that that was correct, right?

20 A Yes, ma'am.

21 Q Can we look over at your Exhibit 66, which is also in
22 evidence, then if you turn to actually 66A, and I don't have
23 this on the computer. I'm sorry I can't put it up on the
24 screen. This is -- Exhibit 66 and the following documents are
25 the credit report that you obtained on-line in January 2002,

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1 correct?

2 A Correct.

3 Q So as of January 2002, the credit reporting companies
4 were picking up that Sears account as an account transferred
5 or sold collection account, showing --

6 MR. PHILLIPS: What page are you on?

7 MS. MARTIN: On Page 66A.

8 MR. PHILLIPS: 66A?

9 MS. MARTIN: Yes.

10 BY MS. MARTIN:

11 Q And as to that Sears account, it says two times 30 days
12 delinquent, one time 60 days delinquent, and 20 times 90 days
13 delinquent. Am I reading that correctly off of 66A?

14 A Yes.

15 Q And that's the same Sears account, account number 5650152
16 and then they blank out the last numbers. That's the same
17 Sears account that we were looking at on Page 18E, where it
18 was being reported in February 1998 that it was being pays as
19 agreed, correct?

20 A Correct.

21 Q Then on Page 18F, just for clarification, you have -- you
22 were running a balance on your -- at least at the time of this
23 report, you were running quite a balance on the Citibank Visa
24 card, right?

25 A It says on the report, but, of course, the -- there's one

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1 agency has a zero balance.

2 Q Yes. But two of them picked it up as -- as running a
3 balance. We know they're not always consistent, we can tell
4 that from looking at this, right?

5 A Correct.

6 Q Okay. Going over to Page 18H, you have a county tax lien
7 there, and that's against -- you said that was because of your
8 former husband, right?

9 A Correct.

10 Q But isn't it true that that tax lien has remained on your
11 credit card history as an outstanding tax lien?

12 A That's right.

13 Q And it doesn't say -- there's nothing that says it's not
14 yours; it shows as a tax lien that you owe, correct?

15 A Correct.

16 Q Going to Page 18I. Exhibit -- Page 18I, I want to focus
17 on this summary of your rights under the Fair Credit Reporting
18 Act. This was the -- the information that you got from
19 Privacy Guard in February of 1998, when you first learned that
20 there was a high account, and there was some concern because
21 of the balance as far as the Chevy Chase account, correct?

22 A Correct.

23 Q And you got this document. At the top of the page it has
24 questions and answers concerning -- regarding your report.
25 And there's a question there that says: "How do I dispute

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1 discrepancies on my credit report?" Do you see that?

2 A Yes.

3 Q And the answer says: "Contact the credit bureaus
4 reporting the information," right?

5 A Yes.

6 Q And then farther down the page on the summary of your
7 rights under the Fair Credit Reporting Act, that's a basis of
8 your lawsuit here is the Fair Credit Reporting Act, right?

9 A Yes, ma'am.

10 Q It says there on this line: "You can find a complete
11 text of the FCRA," the Fair Credit Reporting Act, "15 U.S.C.,
12 Section 1681 to 1681(u) at the Federal Trade Commission's
13 website."

14 You didn't look for that at that time, though, did
15 you?

16 A I can't recall.

17 Q Let's go down to the last paragraph, where it says: "You
18 can dispute inaccurate information with the CRA," CRA meaning
19 a credit reporting agency, right, or also known as a consumer
20 reporting agency? That's what Trans Union, Experian and
21 Equifax are, are consumer reporting agencies; is that right,
22 Ms. Deaton?

23 A CRA is credit reporting agency.

24 Q Yeah. And that's Trans Union, Equifax and Experian,
25 correct?

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3-172

1 A Correct.

2 Q Okay. And it says there: "If you tell a CRA that your
3 file contains inaccurate information, they must investigate."

4 And going down farther, I really want to focus on the
5 sentence that says -- or couple sentences, I know it's hard to
6 read here, but says: "The CRA must give you a written report
7 of the investigation and a copy of your report of the" -- and
8 if a copy -- I've got to read it from here. I'm sorry.

9 "The CRA must give you a written report of the
10 investigation" -- do you see where I am reading, Ms. Deaton?

11 A I see where you are reading, yes, ma'am.

12 Q Okay. -- "and a copy of your report if the investigation
13 results in any change. If the CRA's investigation does not
14 resolve the dispute, you may add a brief statement to your
15 file."

16 Now, my question is, Ms. Deaton: Isn't it true that
17 when you got this document, this confidential report from
18 Privacy Guard in February of 1998, you did not take any step
19 to add any brief statement to your file concerning the
20 accounts that you have questioned here?

21 A I wanted the matter cleared up. I didn't --

22 Q Isn't it true that you did not ask to have a brief
23 statement added to your credit report concerning these -- this
24 account?

25 A Would you repeat that? I take off my glasses and I lose

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3-173

1 train of thought, sorry.

2 Q At the time that you received this Privacy Guard
3 statement, isn't it true that you did not take any steps to
4 have a brief statement added to your account?

5 A It said I may and I decided I wanted it cleared rather
6 than -- so I did not take the steps.

7 Q So you didn't add any brief statement to your account?

8 A Not at that point.

9 MS. MARTIN: Your Honor, I would like to go through
10 one more exhibit and go through a few details here.

11 BY MS. MARTIN:

12 Q If you would turn to Exhibit 66, Ms. Deaton.

13 MS. MARTIN: Your Honor, I believe that Defendant's
14 Exhibit Number 212 is identical to Plaintiff's Exhibit 66, and
15 I would ask that we could use our computerized version of
16 Exhibit 212 to display to the jury.

17 THE COURT: If it's the same thing, there's no reason
18 why you can't.

19 MS. MARTIN: Mr. Phillips?

20 MR. PHILLIPS: That's fine with me. Please go ahead.

21 MS. MARTIN: Thank you.

22 THE COURT: Looks the same to me.

23 MS. MARTIN: Okay.

24 BY MS. MARTIN:

25 Q This is that January 2002 credit report, Ms. Deaton,